

REMARKS

Applicant has removed the "s" in claim 1 line 8 accordingly claim 1 and all the claims depending from it should not be withdrawn from consideration as being drawn to a non elected species.

Claim objections

The Examiner has objected to claims 47 due to there being two ending periods.

Applicant has corrected the above informalities claim 47.

Claim rejections - 35 U.S.C. § 112

Applicant has cancelled Claim 50.

Claim rejections - 35 U.S.C. § 102

The Examiner has rejected claims 42, and 48-50 under 35 U.S.C. § 102(b), as being anticipated by Sakwa. The applicant has amended independent claims 1,42 and 48-50 so as to better distinguish that which applicant regards as the invention from the above cited prior art references.

Regarding independent claim 1 and claim 42, the applicant has added further limitations to better describe the relationship of the receptacles and the sleeve. In particular the applicant has further amended these claims by adding the limitation that contains "so that said sleeve is between first and second receptacle" in claims 2 and 3 applicant has also amended the claims so that it is clear that there is a sidewall extending across the cross section of the sleeve. Sakwa does not disclose applicant's arrangement, the Sakwa invention does not teach a sleeve between

09/842,371

two receptacles and as such these claims should now be in condition for allowance.

Regarding claims 48-50, the Examiner rejected these claims because they depended on rejected independent claims 1 and 42. For the reasons stated above, as to claims 1 and 42, the rejection of claims 48-50 under 102(b) should also be withdrawn.

Claim rejections - 35 U.S.C. § 103

The Examiner has rejected claims 42-50, under 35 U.S.C. § 103, as being unpatentable over Roerich in view of Briedenbach. None of the prior art cited by the examiner teach or suggest a sleeve with two receptacles as opposite ends of the sleeve where the receptacles have different means for applying a product. Breidenbach teaches a rollerball applicator but does not teach or suggest a second receptacle with a different means for applying a product. The examiner combines Roerich and Briedenbach, but that combination does not teach or suggest applicant's invention. Roerich teaches two perfume containers at opposite ends of the sleeve and to combine it with Briedenbach does not yield applicant's invention. Combining Roerich and Briedenbach provides a dual ended container where there is a pair of rollerball applicators.

Roerich teaches dual receptacles that are identical. There is no suggestion in Roerich to have different applicators on opposite sides of the sleeve. Combining Pieper with Roerich provides a dual container where there is a doe foot applicator on each end. The combination does not suggest applicant's invention.

Applicant's invention is not obvious in view of Roerich, Pieper and Briedenbach as there is no suggestion of a sleeve with different applicators as each end. Costa is directed to a sleeve

09/842,371


with a mascara applicator as one end and an eyeliner applicator as the other end. Costa when combined with Roehrich, Breidenbach and/or Pieper does not produce Applicant's invention as there is no suggestion in Roehrich to make the proposed combination. The Examiner's proposed combination is a wholesale reconstruction of Roehrich. Roehrich does not suggest the Examiner's proposed modifications. It is a design patent that shows two perfume receptacles. Roehrich does not suggest that the perfume receptacles can be replaced or that anything else could be substituted for the perfume receptacles. The Examiner's contention that Costa and Roerich combined with the other patents render applicant's invention obvious also ignores the fact that Costa and Roerich were issued over 30 years and 50 years ago respectively. The non obviousness of applicant's invention is deomonstrated by the fact that these patents have issued so long ago and were available to the art for such a long period of time without yielding applicant's invention. The fact that the examiner has to rely on these old patents is a strong factors in demonstrating the non obviousness of applicant's invention. Further demonstrating the non obviousness of the applicant's invention are the affidavits dated March 28, 2006 and August 28, 2006 that were filed to show commercial success of applicant's invention. These affidavits demonstrate the commercial significance of applicant's invention in a highly crowded field.

09/842,371

CONCLUSION

For the foregoing reasons, applicant's claims are patentable over the cited prior art and the application should be in condition for allowance.


Respectfully submitted,



Thomas A. O'Rourke
Reg. No.: 27,665
BODNER & O'ROURKE, L.L.P.
425 Broadhollow Road
Melville, New York 11747
(631) 249-7500

CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 on this 27th of December, 2006.


Thomas A. O'Rourke